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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,442	06/01/2006	Robert Lohr	METPATP81AUS	2422
20210 7590 11/06/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
LE, MARK T				
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
11/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,442

Applicant(s)

LOHR ET AL.

Examiner

MARK T. LE

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 20-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date 4/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

1. The substitute specification, filed April 20, 2008, has been approved for entry.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for raising the blade and the means for electrically connecting the blade to a feed circuit, as recited in lines 6-7 of claim 20; and a series of discontinuous localized separate restoring devices, as recited in the last two lines of claim 20, must be shown or the features must be canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 20-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, lines 2-3, the expression "ground level electrical feed type vehicle" is indefinite because it is not clear as to what structures are covered by the instant claimed type.

In claim 20, lines 6-7, the expressions "means for raising the blade 10", and "means for electrically connecting blade (10) to a feed circuit of the vehicle" appear to suggest that means plus function under 35 U.S.C. 112 sixth paragraph is intended; however, the specification does not include adequate descriptions of the corresponding structures.

In claim 21, line 3, "the elastic recall force" lacks antecedent basis.

In claim 26, the expression "wherein the conductors (19,20) are inserted into a slot provided in a cavity of ..." is not clear. Note that each conductor (19 or 20), not both conductors, of the present invention is inserted into a slot of a corresponding one of the holding fixtures (23,24).

In claim 28, last two lines, the expression "the shape of an insulating cover that opens with the passage of the blade (10) and closes after the blade (10) passed thereby" is indefinite for being double inclusions. Note that the same feature has already been defined in claim 27 from which claim 28 depends.

In claim 29, lines 2-3, "the device for electrical collection" lacks antecedent basis.

In claims 37-38, lines 3-4, the expression "the ground level electrical energy collection assembly" lack antecedent basis.

4. In claim 20, the expression "elastic compressibility means engendering locally an elastic restoring force ..." is not qualified as means plus function under 35 U.S.C. sixth paragraph; therefore, it is not treated as such.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 20, 23-26 and 37-38 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Flodell (US 3,848,712).

Flodell discloses a device having features similar to that recited in the instant claims, including energy collection blade 1 having collecting parts attached to its lower end, wires 3a,3b forming parts of a feed circuit, a pair profile holding fixtures 10a,10b

holding conductors 12, 27, and profile carrier support 6, and said holding fixtures, having at their upper ends, elastic compressibility means engendering locally an elastic restoring force to bring the profile holding fixtures together after lateral compression.

Regarding the instant claimed means for raising the blade, it is noted that Flodell does not describe a means for raising blade 1 of Flodell; however, as a matter of common sense, it would have been obvious to one skilled in the art to use a structure or means for raising blade 1 of Flodell out of the conductor conduit in due course for necessary services.

Regarding instant claim 24, note that blade 1 of Flodell is considered to also include part 15 and two different conducting parts 22, which together define a composite structure, as broadly claimed.

Regarding instant claim 26, note that each holding fixture 10a, 10b of Flodell holds a conductor 12, 27 at its edge, and that the holding fixtures of Flodell face one another as broadly recited in the instant claim.

Regarding the statements of intended uses recited in instant claims 37-38, note that since the structure of Flodell is capable of the instant claimed intended uses, the instant claimed intended use limitations are considered met.

7. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flodell (US 3,848,712) in view of Chandler (US 4,083,439).

Flodell is applied above.

Regarding the instant claimed structure being buried, as recited in instant claim 27, consider the structures of Chandler, as shown in Figures 1-2 and 4; wherein, the

similar structure can either be buried in the ground or installed above ground. In view of Chandler, it would have been obvious to one skilled in the art to alternatively bury the structure of Flodell, in a manner similar to that taught by Chandler, so as to achieve expected advantages thereof, such as maintaining the ground or road surface flat without protrusions so as to allow other vehicles to move across the surface without obstructions. Regarding the instant claimed insulating cover, recited in instant claims 27, 28, consider covers 13 of Flodell.

8. Claims 20, 23, 25-31 and 35-38 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Andre (US 5,960,717) in view of Flodell (US 3,848,712).

Andre (Figures 1 and 9-13) shows a structure having features similar to that recited in the instant claims, including guidance arm 10, guide rollers 12, 13, semi-rails 57,58, energy collecting blade 48 having bulged end 50, the blade movable between the raised or lowered positions as shown in Figures 9-12, conductors 51, 52 held by resilient insulating layers 53,54, and cover fixtures 60,61 that have elastic compressibility means engendering locally an elastic restoring force to bring the profile holding fixtures together after lateral compression. It is noted that the insulating layer 53 or 54 and the corresponding fixture 60 or 61 on each side of the structure of Andre are made as separate pieces instead of a single piece structure. In the structure of Flodell, the insulating layer and the corresponding cover fixture on each side of the structure are formed as one piece as a holding fixture. In view of Flodell, it would have been obvious to one skilled in the art to form the insulating layer and the corresponding

cover fixture on each side of the structure of Andre as one piece so as to form a holding fixture, similar to that taught by Flodell, so as to simplify the construction for easy handling and installation.

Regarding the instant claimed profile carrier support, consider the profile carrier support 6 of Flodell, and it would have been obvious to one skilled in the art to construct the structure of Andre with a profile carrier support, similar to that taught by Flodell, so as to facilitate handling and installation of the structure as unit.

Regarding the instant claimed insulating cover, as recited in instant claims 27-28, consider the insulating covers corresponding to fixtures 60,61 of Andre, as modified.

Regarding the instant claimed two-part composite joint, as recite in instant claim 35, note that the insulating covers corresponding to fixtures 60,61 of Andre, as modified, are also readable as a two-part composite joint. On the other hand, regarding to the composite joint as defined in claims 35 and 36, consider pivotable lips 13 of Flodell, and it would have been obvious to one skilled in the art modify the structure of Andre to include the use covering lips, similar to that taught by Flodell, instead of the cover fixtures 60,61 of Andre so as to achieve expected advantages of the covering lips of Flodell.

Regarding the statements of intended uses, recited in instant claims 37-38, note that since the structure of Flodell is capable of the instant claimed intended uses, the instant claimed intended use limitations are considered met.

9. Claim 22 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over Andre (US 5,960,717) in view of Flodell (US 3,848,712) as applied to claim 20 above, and further in view of Luer (US 592,711).

Regarding the shape of the blade being in the form of a flat piece structure with a forward beveled edge, as recited in instant claim 22, such blade configuration is well known, note for example the blade configuration of Luer, which has flat portion 1 and beveled end portion 2. Therefore, it would have been obvious to one skilled in the art to form the blade body of Andre with flat and beveled portions, similar to that taught by Luer, so as to facilitate traveling of the blade along the conduit.

10. Claims 21 and 32-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK T. LE whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Le/
Primary Examiner
Art Unit 3617

mle
11/05/08